

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15733
[Redacted])	
)	DECISION
Petitioners.)	
)	

On July 18, 2001, the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination to [Redacted] (petitioners), denying the petitioners refund claim for the taxable year 1997 in the total amount of \$1,054. The petitioners filed a timely protest and petition for redetermination. The Tax Commission, having reviewed the file, hereby issues its decision.

The petitioners filed their 1997 Idaho income tax return in June of 2001 seeking a refund of excess withholdings. The Tax Commission's Revenue Operations Division issued a Notice of Deficiency Determination denying the petitioners refund request since the time period for claiming a refund of excess withholdings had expired.

For taxable year 1997, Idaho Code section 63-33035(e) stated, in pertinent part:

(e) Amounts deducted from wages of an employee during any calendar year in accordance with the provisions of this section shall be considered to be in part payment of the tax imposed on such employee for his tax year which begins within such calendar year and the return made by the employer under this subsection (e) shall be accepted by the state tax commission as evidence in favor of the employee of the amount so deducted from his wages. Where the total amount so deducted exceeds the amount of tax on the employee, based on his Idaho taxable income, or where his income is not taxable under this act, the state tax commission shall, after examining the annual return filed by the employee in accordance with this act, but not later than sixty (60) days after the filing of each return, refund the amount of the excess deducted. **No credit or refund shall be made to an employee who fails to file his return, as required under this act, within three (3) years from the due date of the return, without regard to extensions, in respect of which the tax withheld might have been credited . . .** (Emphasis added)

The due date of petitioner's 1997 Idaho income tax return, without regard to extensions, was April 15, 1998. Idaho Code section 63-3032. Therefore, the period of limitation with respect to claiming a refund or credit of taxes shown in the Idaho income tax return for 1997 expired on April 17, 2000. Since the petitioners did not file their return until June of 2001, the petitioners are not entitled to the refund they seek.

WHEREFORE, the Notice of Deficiency Determination dated July 18, 2001, is hereby APPROVED, AFFIRMED, and MADE FINAL.

An explanation of the petitioners' rights to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2003.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2003, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Certified Mail No. [Redacted]